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SUMMARY RECORD OF THE 12th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 31 March 1999, at 3 p.m.

Chairperson: Ms. ANDERSON (Ireland)

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The meeting was called to order at 3 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 8) (continued) (E/CN.4/1999/5, 21-24, 106 and 108; E/CN.4/1999/NGO/15, 34, 47 and 55; A/53/661)

1. Mr. IDRIS (Sudan) said that the continued occupation of Arab territories and the violation of human rights there by Israel had been well documented in the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/53/661). The continued occupation of the Syrian Golan violated the Charter of the United Nations and international law, which prohibited the acquisition of land by force.

2. The international community had repeatedly sought Israel's compliance with General Assembly and Security Council resolutions and had declared Israel's decision to impose its own laws and authority on the Syrian Golan to be null and void. It had also called on Israel to stop changing the demographic composition of the Syrian Golan, to allow the people of that territory to return to their homes and to stop building settlements there.

3. Israel must comply with the will of the international community and halt the closing off of the occupied territories and cease applying other measures in occupied Jerusalem, especially collective punishment. Israel must implement the Geneva Convention relative to the Protection of Civilian Persons in Time of War (the Fourth Geneva Convention) which had been applicable to the occupied territories, including occupied Jerusalem, since 1967. Israel's withdrawal from the occupied territories in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights would be the best way to end the human rights violations occurring in those territories.

4. Mr. MORJANE (Tunisia) said he was deeply concerned at the escalation of human rights violations in the occupied Arab territories. The report of the Special Rapporteur (E/CN.4/1999/24) indicated that the current serious violations were merely a continuation of past practices. A major source of concern identified in the report was Israel's expansion of existing settlements and construction of new ones in the occupied territories. Also disturbing were the demolition of Palestinian homes, the worsening conditions experienced by Palestinian prisoners in Israeli prisons and detention centres, the closure of the territories and a general denial of the Palestinians' rights.

5. Despite the many resolutions adopted by the General Assembly and the Commission condemning such practices and calling on Israel to comply with its international commitments, including the Fourth Geneva Convention, Israel persisted in violating the provisions of the international human rights instruments.

6. Tunisia had consistently supported the Middle East peace process from the outset and believed that any settlement must be based on Security Council resolutions 242 (1967) and 338 (1973) and the principle of land for peace. The hopes that had been generated by the Oslo Accords had been dashed by the

current paralysis in the peace process caused by the Israeli Government's refusal to keep its promises. The excuses given for Israel's actions merely rendered the process devoid of meaning. His delegation therefore hoped that Israel would return to the path of peace and moderation so that the peace process could resume its course.

7. Ms. GERVAIS-VIDRICAIRE (Canada), having commended the Special Rapporteur on his thorough report (E/CN.4/1999/24) said that the achievement of a just, lasting and comprehensive peace was the best way to ensure respect for human rights in the West Bank and Gaza Strip. She therefore urged both Israel and the Palestinians to honour the commitments they had undertaken in the Wye River Memorandum.

8. While her delegation did not underestimate the complexity of the human rights issues facing Israel and the Palestinian Authority, it believed that the human rights of the population of the occupied territories were being routinely denied. Canada endeavoured to make a positive contribution to the human rights situation in the territories by maintaining contacts with Israeli and Palestinian human rights non-governmental organizations (NGOs) and pursuing a dialogue with the authorities on both sides. Canada had also offered to provide technical assistance with elections, had sponsored a visit to Canada by Palestinian legislators and currently chaired a working group on refugees in the context of the peace process.

9. Her Government did not recognize permanent Israeli control over the territories occupied since 1967 and opposed all unilateral attempts to establish new settlements in the territories and annex East Jerusalem and the Golan Heights. Such actions were contrary to interna ional law and harmful to the peace process. The status of all disputed territory must be settled on the basis of the relevant Security Council resolutions.

10. The provisions of the Fourth Geneva Convention applied to the occupied territories. She therefore welcomed the efforts to render the territories more open and encouraged Israel to permit greater freedom of movement between the West Bank and Gaza. The designation of Palestinian residents of East Jerusalem as "resident aliens" and the withdrawal of their identity cards violated the Fourth Geneva Convention and international humanitarian law.

11. The decrease in administrative detentions and the discontinuation of the most severe methods of torture were to be welcomed, but the continued use of administrative detention and of "moderate physical pressure" were unacceptable, as was Israel's detention of Lebanese citizens for bargaining purposes.

12. Since the Palestinian Authority also was expected to uphold the norms of international humanitarian law, reports of human rights violations by the Authority were a source of concern. The judiciary must be strengthened and a real separation of powers must be established within the Authority, and her Government was prepared to help develop appropriate institutions in that regard. In addition, Palestinians in the West Bank and Gaza Strip must be allowed to express their views without fear of retribution by the Authority.

13. Her delegation intended to study the question of convening a conference of the High Contracting Parties to the Fourth Geneva Convention in accordance with General Assembly resolution ES-10/4 and hoped that such a conference would contribute positively to the human rights situation in the occupied territories. Her delegation also believed that the Special Rapporteur's mandate, like that of other country rapporteurs, should be subject to annual renewal and not dealt with under a separate agenda item.

14. Mr. F.A. AL-THANI (Qatar) said that the General Assembly, the Security Council and the Commission had been considering Israel's violations of human rights and fundamental freedoms in the occupied territories since 1967 and had always condemned them, yet Israel had consistently failed to comply with such resolutions. The presence of occupying forces in the Syrian Arab Golan and Southern Lebanon and the human rights violations perpetrated by them there must again be condemned by the Commission.

15. The Madrid Conference had sought to establish a just peace based on the principle of land for peace and respect for international law. However, the desire for peace could not be purely one-sided. The only way to ensure respect for human rights in the occupied Arab territories was through compliance with the relevant United Nations resolutions. Until such time as a settlement was reached, the new type of apartheid constituted by the isolation of the Palestinian territories must be condemned.

16. Mr. WANG Min (China) said he welcomed the progress achieved in the Middle East peace process since 1991, particularly the signing of the Wye River Memorandum in October 1998. It was regrettable therefore that Israel had suspended the implementation of that agreement and that peace talks between Israel and the Syrian Arab Republic and Lebanon were at an impasse. Such delays not only endangered the peace and stability of the region but affected peace and development throughout the world. The establishment of a lasting peace in the Middle East would take a relatively long time, given the complexities involved, and the international community must be patient.

17. China had consistently supported the Palestinian people in its struggle to regain its legitimate national rights. Although it had not acted as a mediator, China had helped to move the Middle East peace process forward at every stage. His Government continued to maintain that the peace talks should be based on the relevant United Nations resolutions and the principle of land for peace. He urged the parties concerned to acknowledge the achievements of the process to date and create an environment conducive to its resumption.

18. The Commission had always played a positive role in the peace process and continued to maintain the question of human rights violations in occupied Arab territories as a separate item on its agenda, thereby indicating the importance it attached to the question. The international community should continue to devote its attention to finding a peaceful solution to the situation in the Middle East with a view to the full enjoyment of all its human rights by the Palestinian people.

19. Mr. FERNÁNDEZ PALACIOS (Cuba) said that, despite some positive achievements under the Wye River Memorandum, the Middle East peace process had come to a halt as a result of the deliberate and intransigent policy of the

current Israeli Government. Israel's policy of ongoing colonization and its attempt to assimilate the occupied territories by force were the primary cause of human rights violations in the region.

20. The methods used by the Israeli General Security Service, euphemistically labeled "moderate physical pressure" were another source of concern. The fact that the injunctions prohibiting torture had been provisionally lifted threatened to make Israel the first country in which torture was legalized as a means of obtaining confessions.

21. The Commission must also focus its attention on the occupied Syrian Golan and once again demand that the legitimate rights of the Syrian people to its territory be restored and that the occupying Power end its policy aimed at changing the physical, demographic and institutional structure of the territory.

22. Mr. MOSTAFA (Observer for Egypt) said that despite the Commission's many resolutions since 1967, Israel had maintained its intransigent position. His Government had made great efforts within the context of the Middle East peace process and had taken the courageous step of concluding a peace treaty with Israel in 1979. It sought to promote a comprehensive settlement in the region on the basis of Security Council resolutions 242 (1967), 338 (1973) and 425 (1978). Unfortunately, the peace process was threatened by Israel's failure to respect the commitments it had undertaken at Madrid, Cairo and Washington, and continued to pursue its oppressive policies which had been condemned by the international community.

23. The report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and other Arabs of the Occupied Territories and the report of the Special Rapporteur described Israel's efforts to change illegally the demographic composition of Jerusalem, a policy that had been rejected by the General Assembly at its tenth emergency special session, when the Assembly had also called for the convening of a conference of the parties to the Fourth Geneva Convention. Israel must respect the resolutions of intergovernmental bodies so that a just and comprehensive peace could be established in the Middle East on the basis of the principle of land for peace and recognition of the right of the Palestinian people to self-determination.

24. Mr. AL-HUSSAMI (Observer for the Syrian Arab Republic) said that Israel had refused to cooperate with the United Nations or to implement its resolutions. Israeli violations of human rights and fundamental freedoms must be stopped and prevented because they jeopardized regional and international peace and security. The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories had been refused access to the occupied territories; that was regrettable and should be condemned. Families had been separated, identity cards withdrawn and the teaching of history in schools distorted. Such practices promoted racial discrimination.

25. Mr. AL-ATTAR (Observer for Yemen) said that, despite international condemnation, the Israeli authorities continued to violate human rights in the occupied territories, with collective punishments, closures of areas,

confiscation of property, demolition of houses, deteriorating social, educational and health conditions, and demographic changes to the city of Jerusalem. The Special Rapporteur's report (E/CN.4/1999/24) recorded continued flagrant violations of international human rights instruments such as acts of aggression against Arab citizens, with thousands of Palestinians and Lebanese being arrested without trial and tortured during investigation. The Special Rapporteur should continue to fulfil his mandate, and the Commission should continue to give the issue the greatest possible prominence, drawing the attention of the international community to the fact that a comprehensive, just peace in the region could not be achieved without the withdrawal of Israeli forces and the establishment of a Palestinian State with Jerusalem as its capital.

26. Mr. OULD TIJANI (Observer for Mauritania) said that the Israeli practices in the occupied Palestinian and other Arab territories as described in the various reports before the Commission violated international human rights law and international humanitarian law and undermined the peace process. The gravity of the measures adopted by Israel had prompted the General Assembly to convene a conference of the High Contracting Parties to the Fourth Geneva Convention to consider ways of ensuring Israel's respect for that Convention, which applied de jure to the occupied Arab territories. On the occasion of the commemoration of the fiftieth anniversary of the Geneva Conventions, the international community should give a clear signal to Israel regarding its responsibilities.

27. The peace process launched in Madrid on the basis of the principle of "land for peace" had been blocked by Israeli obstructionism and prevarication. The Government of Israel should implement the agreements concluded with the Palestinian Authority, and resume serious peace negotiations, with Syria and Lebanon also, with a view to achieving a definitive settlement. Such a settlement could not be reached without an Israeli withdrawal from all occupied Palestinian and Arab territories.

28. Mr. MADADHA (Observer for Jordan) said that the continued occupation by Israel of Palestinian and Arab territories was a flagrant violation of all human rights, which the Commission should consider in all seriousness. The occupation violated international law and international human rights instruments and, as the Special Rapporteur had stated, was the main cause of human rights violations in the region.

29. His Government was fully committed to the peace process but considered that the lack of progress in that process could not be used as an excuse for stopping investigations of the human rights situation. It was concerned at the Special Rapporteur's assertion that human rights violations were growing daily more serious. There were collective violations in terms of economic blockades and other coercive measures; there were continued violations of the Wye River Memorandum in terms of demolitions of houses, confiscation of Palestinian-owned land and the building of bypass roads; and there were violations of the Fourth Geneva Convention. Respect for human rights by the Israeli authorities could help to relaunch the peace process and restore confidence between Israel and the Palestinian people.

30. Mrs. DANAILOV (Observer for Switzerland) said that the Fourth Geneva Convention, of which Switzerland was the depositary, was in the opinion of her Government applicable de jure in the occupied territories, including those whose alleged annexation had not been recognized by the international community. There was a "hard core" in common between human rights and humanitarian law which included the prohibition of torture; the Special Rapporteur had noted in his report (E/CN.4/1999/24) that Israeli interrogation methods remained unchanged, although his general conclusion regarding torture in Israel was optimistic. Her delegation hoped that all security forces - both Israeli and Palestinian - would conform in their practices to international law.

31. The Special Rapporteur had stated in his report that it was of the utmost importance that the convening of the conference of the High Contracting Parties to the Fourth Geneva Convention, as recommended by the General Assembly, be well prepared. As depositary of the Convention, her Government had been invited by the General Assembly to take all the necessary steps to organize such a conference. It had addressed a number of questions to the States parties regarding the arrangements, and was currently awaiting their replies. Consultations and meetings of experts had already been held.

32. Mr. KHORRAM (Observer for the Islamic Republic of Iran) said that repeated condemnations of Israeli human rights violations in occupied Palestinian and other Arab territories and calls for ending such inhuman practices and behaviour had fallen on deaf ears; gross and systematic violations of human rights had continued unabated. The Israeli occupation authorities spared no effort in depriving the Palestinians and other Arabs of their rights. The policy of demolishing their houses to prepare for the expansion of settlements was widespread and increasing, with considerable traumatic effects on children.

33. Orders for the detention of Palestinian and Arab prisoners were reviewed by military courts, and the files were classified as confidential. Conditions in detention centres and prisons were unacceptable. Systematic resort to collective punishments, torture, arbitrary detention and extrajudicial execution were flagrant violations of human rights and must be ended. Torture had been authorized and carried out in the face of repeated international condemnation.

34. Restrictions relating to freedom of movement in the occupied territories had continued to affect the social and economic well-being of the population and had created psychological, economic and educational problems. The establishment of checkpoints throughout the occupied territories was yet another method of imposing restrictions on freedom of movement. All such restrictions had worsened the economic, social and cultural situations in the occupied territories.

35. The source of all such gross violations of human rights was the Israeli occupation. To put an end to the violations it was necessary to end the occupation and to establish a Palestinian State comprising the whole of occupied Palestine.

36. Ms. AL-HAJJAJI (Observer for the Libyan Arab Jamahiriya) said that the Special Rapporteur's report (E/CN.4/1999/24) described flagrant violations of human rights in the occupied Arab territories. Violent destruction was being employed to empty Jerusalem of Palestinians. Settlements were being expanded and new ones built; bypass roads were being constructed; land was being confiscated; the Palestinians had no right of free movement; and Israel continually failed to abide by resolutions of the General Assembly and the Security Council. Israel enjoyed the unlimited support and connivance of the United States of America, and operated according to the principle of taking everything and giving nothing, and, if something had to be given, it was first poisoned.

37. Mr. AL FARARGI (Observer for the League of Arab States) said that the Special Rapporteur's report (E/CN.4/1999/24) made it clear that violations of human rights in the occupied territories still continued. Israel had completely ignored a recent General Assembly resolution condemning the establishment of new settlements and continued to demolish Palestinian homes and build bypass roads. It placed administrative obstacles in the way of registering Palestinian births; it deprived Arab inhabitants of Jerusalem of identity cards; and more than 2,000 Palestinian detainees, including women and children, were being held in conditions injurious to their health.

38. The Israeli security forces continued to use torture although Israel had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Israel continued with its policy of closures - one of which had begun in November 1998 and lasted six weeks - preventing Palestinians enjoying their economic rights. There was a need for the Special Rapporteur to intensify his efforts to investigate the situation of human rights in the occupied territories.

39. Mr. HASSAINE (Observer for Algeria) said that there could be no peace in the region until Israel agreed to the unconditional withdrawal from the territories occupied since 1967. The current deadlock in the peace process was due to the uncompromising position of the Israeli administration, which had pursued a confrontational approach since unilaterally suspending implementation of the Wye River Memorandum.

40. The Israeli administration had repeatedly violated the freedom of movement of Palestinians in the occupied territories; it had regularly demolished the homes of Palestinians and seized their land to create new settlements, the goal being to modify the demographic composition of the occupied territories, including East Jerusalem. That created an additional major difficulty for future negotiations on the status of the Holy City.

41. His Government was particularly concerned that the Israeli administration justified the torturing of Palestinian detainees to obtain confessions and information. Such institutional impunity was in complete violation of Israeli's international commitments.

42. The violations of the human rights of the Arab populations in the occupied Syrian Golan Heights and south Lebanon created tension and

instability in the entire region. The international community was duty-bound to condemn such practices energetically in order to work towards creating a climate of confidence and mutual respect essential for achieving peace.

43. Mr. MAACHOU (Arab Lawyers Union) said that Israel had been committing increasingly serious violations of human rights in the Arab occupied territories, including Palestine, since it had suspended the peace process and had become the first country to legalize torture. The Israeli authorities continued to confiscate land, expand settlements and create new ones, impose collective sanctions, demolish homes and commit other abuses, in violation of the Fourth Geneva Convention and its additional Protocol (Protocol I). The General Assembly had condemned such acts as war crimes.

44. Israel was trying to change the demographic composition of the Holy City of Jerusalem through a policy of Judaization. Administrative policies made it virtually impossible for Palestinians to build or even rent homes in East Jerusalem. In 1967, Palestinians had owned about 90 per cent of the land in East Jerusalem, whereas the current situation was that their proportion had been reduced to about 10 per cent.

45. Mr. MELO (World Organization against Torture) said that there had been many human rights violations both in the territories occupied by Israel and in the Palestine Autonomous Areas. The Palestinian Authority did not have the same legal status as Israel and could not therefore be held accountable in the same way, but some of the gross violations committed by its agents must be denounced and the perpetrators punished.

46. The Committee against Torture had repeatedly called for an immediate end to practices such as the use of "moderate physical pressure", but the information received suggested that Israel continued to use torture during interrogation. Over the past 12 months, his organization had documented at least 100 cases in which Palestinians had been held in administrative incommunicado detention. Statements by the detainees were not made available to the defence or subject to judicial review. The Israeli High Court had recently rejected an appeal to release a Palestinian prisoner held in administrative detention since 1994. Currently, at least 79 Palestinians were subject to that form of detention. If no valid charges could be brought against them, they should be released immediately.

47. Over the past 12 months, there had been numerous allegations of grave human rights abuses committed by the Palestinian authorities, including defiance of court decisions by the Palestinian security forces, trials conducted without due process, arbitrary detention, prisoners held in incommunicado detention without charge for long periods and torture and ill-treatment employing methods similar to those used by the Israeli authorities.

48. There had been at least one case in which a minor had been held for almost two months without being charged. Several minors had also been killed by security officials during rallies.

49. Mr. YOUNIS (International Federation of Human Rights Leagues) said that the situation of human rights in Palestine continued to deteriorate. Israel

continued to confiscate Palestinian land, build new settlements and expand existing ones in its determination to change the demography of East Jerusalem, the West Bank and the Gaza Strip. Israeli soldiers and settlers continued to use excessive force against Palestinians. Israel was the only country in the world that had legalized torture.

50. A number of United Nations treaty monitoring bodies had recently concluded that the basic rights of the Palestinian people were being massively violated by the Israeli authorities, and his organization called upon the Commission to condemn such violations. It also called for the convening of a conference of the High Contracting Parties to the Fourth Geneva Convention to adopt measures to enforce that Convention in the occupied Palestinian territories.

51. Mr. SASSOLI (International Commission of Jurists) said that, in his report on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/1999/24), the Special Rapporteur never stated whether or not he considered the information transmitted to him to be true though much of the information he had received could have been verified. Human rights violations by the Palestinian authorities did not fall under the Special Rapporteur's mandate. By mentioning them at the same time as similar Israeli violations of international humanitarian law, the Special Rapporteur ran the risk of appearing to justify or at least relativize them. That the Palestinian authorities often committed such abuses because Israel pressured them to "guarantee Israeli security" could not serve as a justification either.

52. His organization supported the proposal to hold a conference of the High Contracting Parties to the Fourth Geneva Convention on ways of enforcing the Convention in the occupied territories. The conference must be open to all States, and to NGOs as observers, and must be held even if Israel should, regrettably, decide not to attend.

53. Mr. LITTMAN (Association for World Education) reiterated a proposal that he had first made in 1990 (E/CN.4/1990/SR.52) for a "United States of Abraham", which could provide a peaceful solution to an otherwise endless conflict. He was not the only advocate of such a plan: similar suggestions had been made by Yitzak Rabin, King Hassan II of Morocco, Shimon Peres, and the late King Hussein of Jordan. If the will was there, if democratic institutions and respect for human rights became the natural bedrock of civil society throughout the Middle East, such a confederation would be possible.

54. Mr. MACPHERSON (Amnesty International) said that, although the number of Palestinians imprisoned had decreased, more than 1,600 were still being arrested each year and routinely tortured or ill-treated during interrogation. At least 80 were currently held in administrative detention without charge. In addition, some 130 Lebanese nationals had been detained for up to 13 years. In keeping such people as "bargaining chips", Israel was violating articles 7 and 16 of the International Covenant on Civil and Political Rights. The Working Group on Arbitrary Detention and the Committee against Torture had both condemned such detention and the interrogation methods used, but the Israeli Government paid no heed. Many such violations were officially authorized at the highest level, indeed effectively legalized.

55. Abuses by non-governmental groups - more than 100 Israeli civilians had been killed in suicide bombings by armed Palestinian groups over the past five years - could never excuse human rights violations by Governments. Without human rights there could be no genuine security and no sustainable peace. Israel should apply fully in the occupied territories the international human rights treaties to which it was a party.

56. Ms. GYSIN (Society for Threatened Peoples) drew the Commission's attention to the policy of withdrawing Israeli identity documents from East Jerusalem Palestinians who were unable to prove that Jerusalem was their place of residence. In pursuance of the policy of maintaining a Jewish majority in Jerusalem, Palestinian land was confiscated, restrictive building regulations for Palestinian living areas were issued and family reunification was refused. Many Palestinians had left the city as a result of the living conditions there and, until 1995, they had had no difficulty in returning. The Israeli Government had then changed its policy, without warning.

57. The withdrawal of identity cards - for which there was no recourse - amounted to a prohibition to enter the city, whether for work or education. The Palestinians concerned also lost their entitlement to social services. Since spouses and children were also affected, it was estimated that over 8,000 people had lost their Jerusalem residence permits in the past three years. Palestinians were considered immigrants and for them residence in Jerusalem was a privilege not a right, whereas Israeli citizens could resume their residence in Jerusalem at any time. The Commission should call on the Israeli Government to end forthwith the practice of withdrawing identification documents, to return those that had been withdrawn and to allow the reunification of families.

58. Mr. AHMAD (World Muslim Congress) said that the history of violations of the human rights of the people of Palestine went back many years. The Arabs - Muslim and Christian - who had formed 90 per cent of the population in 1918 had since been reduced to a minority. Arabs in Israel suffered general and overt discrimination and their national identity was constantly under attack. Even the minuscule percentage of land the Palestinians had been offered under the Oslo Accords had not been handed over and they were prevented from exercising any meaningful sovereignty. The Israeli attempt to alter the status of Jerusalem, changing the city's Arab and Islamic character, violated Palestinian rights. Israel appeared to consider itself free to violate its treaty commitments and the peace process seemed to be dead.

59. The inhabitants of the illegally occupied Southern Lebanon and Syrian Golan also suffered. In the latter, Israel was constructing new roads in order to bisect the territory and destroy its unitary character. Israel must vacate the Arab lands that it had occupied. The building of Israeli settlements must also stop immediately. He called on the Commission to continue to show its disapproval in the strongest terms of the violation of human rights by Israel in Palestine and the occupied Arab territories.

60. Mr. HALINEN (Special Rapporteur on the Palestinian territories occupied since 1967) said that every aspect of the situation, including human rights, was clearly overshadowed by the occupation, which must therefore end before the peace process could proceed. He endorsed the remark by one speaker that

peace was not just the absence of war. That had to be borne in mind when integrating human rights into the peace process. Lastly, he hoped that the representative of Israel would conclude from the debate that it was in Israel's own interests to cooperate fully and unconditionally with him, as required by his mandate, and with the United Nations human rights mechanisms in general.

61. Mr. RAMLAWI (Observer for Palestine) said that, at the 11th meeting of the Commission, he had sought to raise a point of order when the representative of Israel had strayed from the subject of Israeli practices in the occupied territories. The Chairman had acted arbitrarily and coercively in not allowing him to proceed, notwithstanding the terms of General Assembly resolution 52/250, which conferred on Palestine the right to raise points of order related to the proceedings on Palestine and Middle East issues before the General Assembly and other organs of the United Nations.

62. Secondly, he deplored the request by the Special Rapporteur for an amendment of his mandate, which the representative of Israel supported. The Special Rapporteur's task was to examine human rights violations by Israel; any amendment would not be lawful and could not succeed.

63. The CHAIRPERSON said that, under rule 42 (1) of the rules of procedure, only representatives of member Governments were entitled to raise points of order. In that connection, she recalled that rule 77 of the rules of procedure stated that only the Economic and Social Council could amend the rules. In the circumstances, she had urgently requested the advice of the Legal Adviser in New York. As soon as she received his opinion, she would share it with the Commission and take any action that was necessary.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (agenda item 9) (E/CN.4/1999/7, 25-27, 30-38, 41-43, 107, 117, 119, 121, 125-127, 129 and 130; E/CN.4/1999/NGO/3, 11, 12, 16-20, 29 and 61; S/1998/581; A/53/402 and 490; A/52/539)

64. Mr. van der STOEL (Special Rapporteur on the situation of human rights in Iraq) said that his latest report (E/CN.4/1999/37) once again contained numerous allegations of systematic arbitrary executions, interference with the independent religious practice of the Shiite community, continuing internal deportations of ethnic Kurds, violations of the right to food and health, violations of the rights of the child and the Government's continuing failure to cooperate in efforts to resolve the hundreds of cases of missing people, Kuwaitis and others, who had disappeared during the Iraqi occupation of Kuwait.

65. Army officers were said to have been among those executed, including some senior officers who had allegedly planned a military coup and others in connection with the unrest in southern Iraq following the assassination of Grand Ayatollah Mohammed Al-Sadr and his two sons. The Grand Ayatollah had been popular in Iraq, especially since he had called for the release of Shiite prisoners, an action which had apparently angered the Iraqi authorities. His

assassination formed part of a series of murders of Shiite clerics and of the systematic suppression of Shiite religious activity. The Government of Iraq denied any responsibility, but it was difficult to see how such assassinations could be possible in a country like Iraq, where security was so well-organized.

66. As long as the politico-legal system in Iraq remained unchanged, serious human rights violations would continue. The Government of Iraq must take steps to change that situation, and it could make a start by accepting the deployment of United Nations human rights monitors throughout the country.

67. Mr. AL-HUMAIMEEDY (Observer for Iraq) said that any reader of the report would realize that its aim was to provoke sectarianism and divide the Iraqi population into ethnic and religious groups. The Special Rapporteur had simply repeated earlier allegations based on misleading data from hostile and unreliable sources which had cited isolated events as though they were systematic. After a proper trial, some persons had been convicted of acts aimed at destroying the national economy and undermining national security. They had been executed. The Special Rapporteur had, however, greatly exaggerated the numbers of persons that had allegedly been executed.

68. As for the so-called violations affecting the population of the southern marsh area and allegations of military attacks and arrests involving certain tribes in southern Iraq, the Special Rapporteur constantly repeated those assertions in his reports in order to mobilize international public opinion against Iraq. As to the question of the resettlement of families from the area, certain hostile parties had tried to exploit the fact that the area bordered on Iran to recruit criminals to destabilize the country. The Special Rapporteur had himself acknowledged that the area had harboured fugitives from justice and deserters.

69. The Special Rapporteur's assertion in paragraph 20 of his report that the Government had not responded to his inquiry about the circumstances of the assassination of Shaykh Al-Gharawi and Shaykh Al-Burujerdi was untrue. On 1 February 1999, Iraq had sent a reply to the Special Rapporteur on summary and arbitrary executions, reporting on the findings of the investigation and inviting the said Special Rapporteur to come to Iraq to acquaint himself with the case and meet the persons accused. In the case of the assassination of Ayatollah Al-Sadr, the culprits had been arrested and had admitted their guilt, as had been recognized by the Special Rapporteur himself.

70. The allegations of violations affecting the rights of Kurds, deportations and forced relocations were baseless. The populations of those areas lived normal lives.

71. On the right to food and health care, the Special Rapporteur had asserted in his report that ration cards were distributed on a discriminatory basis. Yet all United Nations agencies working in Iraq had certified that the current system was comprehensive and fair. That was corroborated in the report of the Secretary-General, document S/1999/187.

72. The Special Rapporteur asserted that the Government of Iraq had not permitted United Nations personnel to assess the effects of the air strikes.

But the United Nations Children's Fund (UNICEF), the World Food Programme (WFP) and other observers had investigated damage in Baghdad and elsewhere and had submitted their reports to the Security Council on 5 January 1999. On 1 February 1999, the United Nations Coordinator in Iraq had submitted a report on his visit to the city of Basra.

73. The Special Rapporteur had devoted 26 paragraphs of his report to missing Kuwaitis as though it were a new subject, whereas it was merely a repetition of the statements in previous reports. He wondered why the Special Rapporteur had not taken up the question of the 1,150 Iraqis missing in Kuwait, whose Government refused to give any information on their fate.

74. Having lost his neutrality and become hostile to the Iraqi people, the Special Rapporteur had become a pawn in the game aimed at destroying Iraq and its demographic cohesion. The report made unjustified allegations, and his Government utterly rejected its recommendations. It would continue to refuse to deal with the Special Rapporteur so as not to give him a chance to do any further harm to the Iraqi people.

75. Ms. KUNADI (India) said that her country, a pluralistic society, took pride in its myriad religions, languages and intermingled ethnicities. It had a long tradition of respecting the collective rights and the distinct identities of its minorities, thereby strengthening the enjoyment of human rights by all its citizens. Democracy was the best guarantor of human rights, and the consolidation of India's democratic system had been among the country's achievements since independence, permitting every element of society to find expression.

76. Secularism was a fundamental tenet of the Indian Constitution and political system; religious tolerance and pluralism had long been hallmarks of Indian society. Like many other societies, however, it had had to confront the rise of intolerance and had endeavoured to find appropriate responses within a democratic framework.

77. Experience had shown that development could not take place at the expense of democracy and India's development processes had invariably sought to integrate social justice, human rights and popular participation. She did not claim that her country had solved all the problems relating to the protection and promotion of human rights. There remained specific areas where economic and social grievances had manifested themselves in violence, for which there could be no justification. Her Government's approach had always been to address the underlying causes through dialogue.

78. Similarly, when considering specific situations, the Commission should adopt approaches in keeping with the characteristics of each of them, balancing "spotlighting" with dialogue, persuasion and technical cooperation. That was not to imply that States should not be held accountable. If, however, the objective was to protect the victims of human rights abuses, speaking out against such abuses might not suffice. Better results might be achieved by encouraging self-criticism and positive change and by offering assistance in sustaining democracy. Enforced compliance was unlikely to yield results.

79. Human rights violations occurred to some extent in all parts of the world and, while egregious violations such as those by the Taliban in Afghanistan should certainly be condemned in the strongest terms, little purpose was served by making criticism and condemnation the general rule. Each situation should be judged on its merits and the approach predicated on the positive results that might be achieved. An essential ingredient was respect for international law.

80. Urgent steps must be taken to arrest such trends as the recrudescence of racism and xenophobia, extremism, narrow forms of nationalism and intolerance: democracy and human rights were undermined when ethnic segregation and chauvinism were supported by claims that societies must be constituted on homogeneous lines before they could become tolerant towards diversity. On the contrary, the best approach was to emphasize holistic and integrated attitudes to human rights.

Statements in exercise of the right of reply

81. Mr. SUNGAR (Observer for Turkey) said that, in her statement that morning, the Minister for Foreign Affairs of Sweden had called his country's behaviour to its Kurdish citizens unacceptable. Her statement was equally so. She had been wrong in saying that mass democratic parties were banned: Turkey had a participatory democracy and a solid social fabric enabling all, regardless of their ethnic origin, to make progress, with equal rights, opportunities and obligations. Nobody was prevented from cherishing his or her own subculture; indeed Turkish culture was itself a combination of such subcultures.

82. The party to which she had referred, the People's Democracy Party (HADED), did not represent all Turkish citizens of Kurdish origin; on the contrary such citizens were to be found in all walks of life, including Parliament, the Government, the military and the business community. She had, at least, made the positive point that there was a distinction between democratic forces and the Kurdish Workers' Party (PKK). Turkey would not fall into the trap of ethnic rivalry which was currently being artificially fanned in certain circles.

83. Mr. MOLANDER (Observer for Sweden) said that the observer for Turkey had unfortunately misconstrued the Minister's statement. The fact that Sweden rejected terrorism did not mean that it condoned human rights violations by Governments combating such terrorism. Indeed, the denial of rights to any ethnic minority was a root cause of violence and a recipe for terrorism and ethnic rivalry. The situation of the Kurds in Turkey was a sad example thereof.

The meeting rose at 5.50 p.m.